

# **Condition (5)(C) Report**

## **COMPLIANCE WITH THE TREATY ON CONVENTIONAL ARMED FORCES IN EUROPE**



**January 2021**

**Prepared by the U.S. Department of State**

## **REPORT ON TREATY COMPLIANCE**

This Report on Compliance (hereinafter referred to as the “Report”) with the Treaty on Conventional Armed Forces in Europe of November 19, 1990 (hereinafter referred to as the “CFE Treaty,” the “Treaty,” or “CFE”), is submitted pursuant to Condition (5)(C) of the Senate Resolution of Advice and Consent to Ratification of the May 31, 1996, Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe of November 19, 1990 (“the CFE Flank Document”), and covers January 1, 2020 through December 31, 2020.

This Report discusses compliance concerns, also referred to as compliance questions, involving States Parties not certified by the United States as being in compliance with their obligations under the Treaty. It discusses recent trends regarding compliance, lists outstanding compliance concerns detailed in earlier Reports, and adds any new information and concerns that arose in 2020. The Report also provides an update on steps taken by the United States in response to the compliance concerns and responses from the implicated States Parties.

### **A. RECENT TRENDS**

The United States continues to be concerned about Russia’s aggressive actions in Europe, including its 2014 occupation and attempted annexation of Crimea, Ukraine; the control it exerts over armed groups operating in eastern Ukraine; its 2018 attack on three Ukrainian naval ships near the Kerch Strait; and its disregard for international law more generally, all of which have strained the key pillars of European conventional arms control architecture, including the CFE Treaty. Russia’s unilateral “suspension,” since 2007, of its implementation of CFE – an action not viewed by the U.S. as legally available under CFE or under customary international law – continues to degrade confidence and transparency at a time when military transparency is needed most. This situation has persisted despite diplomatic efforts by the United States and its NATO Allies to convince Russia to resume Treaty implementation. In 2011, in response to Russia’s continuing “suspension,” the United States, along with 21 NATO CFE States Parties, Georgia, and Moldova, ceased implementing CFE vis-à-vis Russia. Russia’s persistent failure to implement CFE has resulted in continuing uncertainty about the largest military force in Europe. However, the Treaty still provides transparency about other military forces in Europe, including in Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova and Ukraine, as well as NATO members. Besides Russia, the only other States Parties not certified to be

in compliance with the Treaty and its associated documents for 2020 are Armenia and Azerbaijan. This year's report includes some new compliance concerns.

CFE, together with other conventional arms control instruments, provides military transparency among implementing States Parties. The regime also contributes to dialogue and stability at a time of heightened tensions in Europe, despite the erosion in CFE Treaty compliance resulting from Russian behavior. The United States will continue to pursue resolution of all violations and implementation concerns. Certification has not been withheld from any State Party due to minor and transitory technical implementation problems or concerns.

The COVID-19 pandemic led CFE States Parties to postpone or cancel most of their planned CFE verification activities in 2020. In addition to all U.S. inspections since March being postponed or cancelled, normal diplomatic discourse has been severely curtailed, with most direct contacts limited to telephone or email, and limited-participation videoconferences replacing formal meetings. As a consequence, follow-up action on outstanding concerns has been limited.

## **B. STATES PARTIES CERTIFIED TO BE IN COMPLIANCE WITH THE TREATY**

States Parties certified to be in compliance with the Treaty and its associated documents for 2020 are Belarus, Belgium, Bulgaria, Canada, the Czech Republic, Denmark, France, Georgia, Germany, Greece, Hungary, Iceland, Italy, Kazakhstan, Luxembourg, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Spain, Turkey, Ukraine, the United Kingdom, and the United States.

## **C. ANALYSIS OF COMPLIANCE CONCERNS AND STEPS TAKEN WITH REGARD TO STATES PARTIES NOT CERTIFIED**

States Parties not certified to be in compliance with the Treaty and its associated documents for 2020 are Armenia, Azerbaijan, and Russia. Specific compliance concerns are detailed below.

### **Republic of Armenia (Armenia)**

**Finding** - Although Armenia continues to express its full support for the Treaty, its equipment total for armored infantry fighting vehicles (AIFVs)

continued to exceed the relevant Treaty-Limited Equipment (TLE) sub-limit in 2020, and other Treaty implementation practices raised concerns as to its fulfillment of certain other Treaty obligations as noted below.

### **Outstanding Compliance Concerns in 2020**

Previously reported, outstanding compliance concerns are: (1) exceeding the sub-limit for AIFVs; (2) stationing of forces on the territory of Azerbaijan without Azerbaijani consent; (3) possible failure to declare Conventional Armaments and Equipment Subject to the Treaty (CAEST); and (4) failure to provide certain Treaty notifications (and, for 2020, a delay in provision of annual data).

### **Compliance Concerns with New Information in 2020**

**Exceeding a Sub-limit on Treaty-Limited Equipment (TLE):** Armenia continues to exceed its sub-limit on armored infantry fighting vehicles.

**Failure to Provide or Delay in Providing Certain Treaty Notifications and Data:** As in 2019, in 2020, Armenia did not issue any notifications of changes of 10 percent or greater in assigned holdings of TLE or permanent changes in organizational structure. Armenia did submit a few notifications other than Format 20s (F20) and Format 21s (F21) in 2020; most of these, however, declared conditions and constraints arising from the COVID-19 pandemic, rather than prescribed Treaty information. Separately, Armenia notified States Parties on December 16, 2020 that there would be a delay in the provision of its annual exchange data, which per paragraph 1(C) of Section VII of the CFE Treaty's Protocol on Notification and Exchange of Information is to be provided on December 15 annually.

**Selective Policy to Exclude Turkish CFE Inspectors:** Via one of the notifications cited above, Armenia circulated a July 29, 2020 note verbale stating that, as of that date, it would "not be in a position to accept military inspections by the Republic of Turkey and guest inspectors from Turkey under the CFE Treaty and the Vienna Document on the territory of the Republic of Armenia." Armenia stated that its decision was based upon certain "principles enshrined in" the CFE Treaty, and on "legitimate security interest and concerns." Without a legal basis to justify any such exclusion, Armenia's refusal to permit Turkish inspectors to enter its territory for the purpose of CFE inspections would breach its obligation under Article XIV(1) of the CFE Treaty to "accept, within the area of application,

inspections in accordance with the provisions of the Protocol on Inspection.” However, no Turkish CFE inspection team has sought entry to Armenian territory since the Armenian note verbale. The note had no immediate practical impact on the conduct of inspections in 2020, because four months earlier, on March 11, 2020, Armenia had requested all CFE States Parties refrain from conducting inspections in Armenia because of the COVID-19 pandemic. On September 12, 2020, Armenia issued a further notification stating that because of a quarantine lasting until January 11, 2021, its requested pause of all CFE verification activities on its territory would continue until further notice.

### **Efforts to Resolve Compliance Concerns in 2020**

Beginning in March 2020, CFE verification activities have been paused due to the COVID-19 pandemic. The United States and its NATO Allies continue to address these issues bilaterally with Armenia when possible. As the situation following the recent conflict between Armenia and Azerbaijan stabilizes, the United States will seek greater clarity on the status of Armenia’s military units and equipment.

Concerning unilateral suspension of certain Treaty notifications, the United States will continue to ask Yerevan to provide timely notifications for changes in equipment holdings and unit subordinations.

### **Republic of Azerbaijan (Azerbaijan)**

**Finding** - Although Azerbaijan continues to express its full support for the Treaty, its equipment totals continued to exceed TLE limits in 2020, and other activities related to Treaty implementation raised concerns as to its fulfillment of certain other Treaty obligations as noted below.

### **Outstanding and New Compliance Concerns in 2020**

Previously reported, outstanding compliance concerns are: (1) exceeding limits on TLE; (2) unilateral suspension of certain Treaty notifications and failure to report correctly certain objects of verification (OOVs) (and, for 2020, a delay in provision of annual data); and (3) possible failure to declare equipment limited by the Treaty. Previously reported compliance concerns with new facts in 2020 include: (4) possible failure to declare sites and objects of verification; and (5) potentially limiting days available for receiving CFE inspections.

## **Compliance Concerns with New Information in 2020**

**Exceeding limits on TLE:** Declared equipment totals in 2019 continued to exceed Azerbaijan's overall limits on TLE.

**Unilateral Suspension of Certain Treaty Notifications, Failure to Report Correctly Certain OOVs, and Delay in Provision of Data:** In 2020, Azerbaijan did not issue any notifications of changes of 10 percent or greater in assigned holdings of TLE.<sup>a</sup>

**Possible Failure to Declare Equipment Limited by the Treaty:** During 2020, Azerbaijan did not declare any previously unreported equipment.

**Potentially Limiting Days Available for Hosting CFE Inspections:** In 2019, Azerbaijan issued a notification requesting that CFE States Parties refrain from conducting inspections on its territory during certain time periods beyond those notified as national holidays. Because Azerbaijan since March 12, 2020 has requested that all States Parties postpone verification activities on its territory because of the COVID-19 pandemic, it has not yet been possible to assess any change in this issue of concern.

## **Efforts to Resolve Compliance Concerns in 2020**

Azerbaijan has repeatedly stated that security issues will continue to affect its Treaty implementation, including the provision of certain time-sensitive Treaty notifications, as long as the Nagorno-Karabakh (N-K) conflict is unresolved and part of Azerbaijan's territory is occupied by Armenia. On March 12, 2020 Azerbaijan issued a notification to CFE States Parties stating that it was postponing all CFE verification activities until further notice because of the pandemic. Azerbaijan did not receive any CFE inspections in 2020 before issuing this statement. The United States and NATO Allies continue to raise compliance concerns in the JCG as well as in bilateral discussions when possible. For the bulk of 2020, diplomatic contact, as well as Treaty implementation activities, have been very limited.

If unilateral suspension of certain Treaty notifications, and limits on the days available for receiving CFE inspections, persist once normal activities resume, the

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<sup>a</sup> The Treaty's Protocol on Notification and Exchange of Information, Section VIII, paragraph 1, subparagraph (B) calls for this type of notification to be provided no later than five days after such change has been made.

United States will continue to monitor and raise the status of these concerns with Baku.

### **OSCE Minsk Group Efforts involving Armenia and Azerbaijan**

Treaty implementation by Armenia and Azerbaijan is affected by the protracted Nagorno-Karabakh (N-K) conflict. The United States is committed, as a Co-Chair (along with France and Russia) of the Organization for Security and Co-operation in Europe (OSCE) Minsk Group, to helping the sides reach a peaceful settlement of the conflict. The Minsk Group is the only forum agreed upon by Armenia and Azerbaijan to negotiate a peaceful settlement of the N-K conflict. A successful political settlement would almost certainly have a positive impact on the ability of Armenia and Azerbaijan to resolve these Treaty compliance concerns.

In late September 2020, renewed fighting broke out between Azerbaijani and Armenian forces near the Line of Contact in the N-K conflict zone. Azerbaijani forces retook several strategic towns and made significant gains south of the former oblast of N-K and into N-K itself. The Minsk Group Co-Chairs (United States, France, and Russia) redoubled their efforts to help the sides peacefully settle the N-K conflict. On October 10, Russian FM Lavrov brokered a limited humanitarian ceasefire between Armenian FM Mnatsakanyan and Azerbaijani FM Bayramov. The ceasefire was never fully implemented and fighting continued. Similarly, an October 17 humanitarian ceasefire mediated by French President Macron was violated multiple times almost immediately after it began. On October 25, the United States, Armenia, and Azerbaijan issued a joint statement noting Mnatsakanyan and Bayramov met with Deputy Secretary Biegun October 24 and reaffirmed their countries' commitment to implement and abide by the ceasefire agreed upon in Moscow October 10. The third attempt at a ceasefire, scheduled to take effect at 8:00 am on October 26 was quickly violated.

Armenia, Azerbaijan, and Russia released a joint statement November 9 announcing a comprehensive ceasefire arrangement. The arrangement did not define Nagorno-Karabakh's current or final status; however, it provided for the return of Armenia-controlled occupied territories surrounding Nagorno-Karabakh by December 1, the establishment of a corridor between Armenia and Nagorno-Karabakh secured by Russian peacekeepers, the establishment of a transit corridor between Azerbaijan and its enclave of Nakhichevan, and the return of people displaced during the most recent fighting and the 1990s war.

## **Russian Federation (Russia)**

**Finding** – In 2007, Russia “suspended” its implementation of the Treaty, which the United States does not view as legally available under the Treaty or customary international law.<sup>b</sup> Since its “suspension,” Russia has continued to violate its Treaty obligations and has made clear that it will not resume implementation of the Treaty. In addition, Russia’s stationing of forces on the territories of Georgia, Moldova, and Ukraine without the host country’s consent continued through 2020.

### **Outstanding and New Compliance Concerns in 2020**

Previously reported compliance concerns that remain unresolved and continued through 2020 are: (1) Russia’s so-called “suspension” of its implementation of the Treaty, including the failure to provide detailed Treaty-required annual data<sup>c</sup> and other information on the structure, organization, and equipment of its land and air forces, and to submit to prescribed on-site inspection activities, which failures continue to interfere with the U.S. ability to assess at what levels Russia is still exceeding TLE limits in the Treaty’s flank zone; and (2) Russia’s stationing of forces on the territories of Georgia, Moldova, and Ukraine without host country consent.<sup>d e</sup>

### **Compliance Concerns with New Information in 2020**

**Russia’s “Suspension” of Its Implementation of the Treaty.** As an extension of its overall “suspension,” Russia has suspended participation in the Joint Consultative Group (JCG) since March 2015 and continued in 2020 to fail to pay its specified share of the common expenses associated with the operation of the JCG in accordance with Treaty requirements. Paragraph 11 of the Treaty’s

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<sup>b</sup> In this Report Russia’s action is referred to as a suspension of implementation of the Treaty, as a decision to suspend observation of Russia’s Treaty obligations, or as a “suspension” in quotation marks, since the Russian action is not viewed as a legally available option under the Treaty or under customary international law.

<sup>c</sup> Information required but not provided from December 2007 through December 2020 includes Russia’s annual Treaty data as of January 1 each year and associated annual notifications; flank data as of July 1 each year; quarterly notifications regarding equipment holdings at the Kushchevskaya armor maintenance facility; and periodic notifications of permanent changes in the organizational structure of Russia’s conventional armed forces, or of changes of 10 percent or more in TLE assigned to units.

<sup>d</sup> While the Treaty establishes numerical limits on TLE and not on military personnel, the Article IV, paragraph 5 prohibition on stationing without host state consent applies to conventional armed forces in general.

<sup>e</sup> Russia’s data as of January 1, 2020, provided under the OSCE Global Exchange of Military Information, indicated the presence of a considerable amount of TLE in Abkhazia and South Ossetia. Russia’s data as of January 1, 2020, under the Vienna Document indicated the presence of TLE in Crimea and personnel in Moldova.

Protocol on the Joint Consultative Group provides a scale of distribution for such common expenses that “shall be applied, unless otherwise decided by the [JCG].”<sup>1</sup> Under the current scale of distribution of common expenses, adopted by the JCG on May 10, 1994, Russia’s share of the JCG common expenses is 9%.

Russia’s “suspension” of CFE Treaty implementation since 2007 has resulted in its continued noncompliance with numerous Treaty provisions. As reported in previous Condition 5(C) reports, according to Russia’s annual data as of January 1, 2007, its flank data as of July 1, 2007, and Russian CFE notifications up to December 12, 2007 (the last data and notifications provided by Russia before the “suspension”), Russia had long exceeded most of the TLE limits for both the original and revised flank zones but, as of July 2007, remained within the limits for the flank zone as contemplated under the adapted CFE (a/CFE) Treaty (which has not entered into force).<sup>f g</sup>

**Overages Above Current Treaty Limits.** Under the CFE Flank Document, which entered into force in 1997, Russia is limited to 700 tanks, 580 ACVs, and 1,280 pieces of artillery in active units in the revised, geographically-reduced flank zone. The same agreement limits Russia to 1,800 tanks, 3,700 ACVs, and 2,400 pieces of artillery in the original flank zone. (Limits in the revised flank zone were increased to 1,300 tanks, 2,140 ACVs, and 1,680 artillery pieces on Russian territory under the 1999 a/CFE Treaty, although it has not entered into force.)

Past assessments of Russia’s VDoc and GEMI data have suggested that Russia may exceed its limits in the revised flank zone by over 2,550 ACVs and its limits in the original flank zone by over 225 ACVs. Of note, VDoc and GEMI data do not include equipment held in storage depots and maintenance facilities, thus the overages are almost certainly even higher than accounted for by current data.

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f The term “adapted Treaty” refers to the Agreement on Adaptation of the Treaty on Conventional Armed Forces in Europe that was signed in Istanbul on November 19, 1999 but is not yet in force. As in previous versions of this Report, reference is made in parts of this Report to adapted Treaty flank numerical limits for additional context. Russia exceeds its original (Post-1996) flank limits by over 225 ACVs and its a/CFE flank limits by over 360 ACVs. Russia has never been in compliance with either its original (entered into force in 1992) or its revised (entered into force in 1997) flank limits, but until 2017 had remained below the flank limits reflected in the a/CFE Treaty that has never entered into force.

g See previous reports for further details about developments on these issues before, and after, Russia’s “suspension” of its implementation of the CFE Treaty in 2007.

**Stationing forces without the consent of the host state:** Russia's stationing of military forces on the territories of Georgia and Moldova without host nation consent continued through 2019. In Ukraine, Russia's occupation and attempted annexation of Crimea, and its stationing of military forces in Crimea without host nation consent in violation of Article IV, paragraph 5, of the Treaty, continued through 2020. The United States, NATO Allies, and all other States Parties except Russia consider Crimea to be part of the internationally recognized territory of Ukraine. As previously reported, the United States has also called for the removal of Russian forces and equipment from eastern Ukraine and Secretary Pompeo's Crimea Declaration of July 25, 2018, rejected Russia's attempted annexation of Crimea. During 2020, Russia continued to instigate armed conflict in eastern Ukraine where Russia arms, trains, leads, and fights alongside antigovernment forces. Russia's ongoing aggressive activities against Ukraine in 2020 remain of concern to the United States, our Allies and partners, and other States Parties.

### **Efforts to Resolve Compliance Concerns in 2020**

The United States and NATO Allies have responded to Russia's "suspension" of Treaty implementation and its stationing of forces on the territories of Georgia, Moldova, and Ukraine without host country consent with diplomatic engagement at the most senior levels.

There has been no change in Russia's position or actions to address U.S. compliance concerns since the United States announced in Vienna, Austria, on November 22, 2011, that it was ceasing implementation of certain obligations under the Treaty with regard to Russia. This was followed by similar announcements from the other 21 NATO States Parties to the Treaty, as well as by Georgia and Moldova, that they would also cease implementation of the Treaty "vis-à-vis the Russian Federation." Since then, the United States and NATO Allies have not attempted to inspect Russian forces under the Treaty. The United States continues to implement all of its obligations under the Treaty with respect to all States Parties other than Russia, and is prepared to resume full Treaty implementation with respect to Russia if Russia resumes implementation of its Treaty obligations.

The United States and NATO Allies have raised longstanding compliance concerns bilaterally and in a variety of multilateral fora, including the JCG, OSCE, and Geneva International Discussions. Regarding Russia's failure to meet its financial obligations under the CFE Treaty, the United States has made clear the U.S. position that Russia, as a State Party to the CFE Treaty, is obligated to pay its

specified share of the common expenses associated with the operation of the JCG, in accordance with paragraph 11 of the Treaty's Protocol on the Joint Consultative Group.

Russia's responses to concerns on compliance have varied, but Russia has made clear that it will not resume implementation of the Treaty, and has tried to deflect U.S. and Allied concerns. From 2007 through 2020, other longstanding concerns related to Russia's compliance with specific Treaty provisions were subordinated to discussions focused on the broader issue of Russia's "suspension," and, since 2014, on Russia's occupation and attempted annexation of Crimea and continuing aggressive activities in eastern Ukraine.

#### **D. IMPLICATIONS FOR U.S. SECURITY, MILITARY SIGNIFICANCE, AND BROADER SECURITY RISKS OF COMPLIANCE CONCERNS**

Russia's "suspension" of Treaty implementation since 2007 has seriously eroded the Treaty's verifiability, decreased transparency, and undermined the cooperative approach to security that have been core elements of the NATO-Russia relationship and European security for more than two decades.

Russia's stationing of forces on the territory of other States Parties without the consent of those States Parties not only has political and military significance to the States Parties in which those forces are stationed, but also destabilizes regional security and has further eroded confidence and stability throughout Europe. Russia's ongoing occupation of and military build-up in Crimea, Ukraine, for example, has increased Russia's reach into the Black Sea region, and affected the security situation in that area.

Russia's aggressive actions in Europe, notably its military invasions of Ukraine in 2014 and of Georgia in 2008, and its disregard for international law, including its unilateral "suspension" of CFE Treaty implementation since 2007, have diminished trust and confidence about Russia's military intentions, and remain a significant concern throughout Europe. Russia's actions are of increasing concern; combined with reduced detail about Russia's equipment holdings, they have had significant military implications, compelling the United States and NATO to recalibrate defensive force posture and readiness measures.

While Armenian and Azerbaijani compliance concerns may be militarily significant to those two states, especially in the context of the N-K conflict, they do not have significant military or security implications for the United States or for

NATO as a whole. The stationing of forces on the territory of another State Party without that State Party's consent is a key political issue in the context of the N-K conflict.

It is the policy of the United States that all violations of arms control agreements should be challenged and corrected, lest governments subject to such obligations conclude that they may be disregarded at will.

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